

**OFFICE OF THE ATTORNEY GENERAL OF TEXAS****AUSTIN****GERALD C. MANN**
ATTORNEY GENERAL

Bureau of Labor Statistics
Austin, Texas

Gentlemen:

Attention: Mr. C.E. Steward

Opinion No. O-2773

Re: May the Bureau of Labor
Statistics disregard insurance
company inspections and make
state inspection of boilers
which come under the juris-
diction of the State Board
of Control?

Your recent request for an opinion on the above
stated question has been received.

In your inquiry you refer to our opinion No.
O-2325 and your letter reads in part as follows:

"Since the above opinion was approved, this
department has received inspection reports and
Certificate of Operation fees from the insurance
company previously insuring the boilers which
come under the jurisdiction of the State Board
of Control.

"It is the desire of this department to know
if we may disregard these inspections and make
State inspection as we feel that it will be unlaw-
ful for us to accept the Insurance Inspectors
reports on States' boilers.

"In lieu of the existing circumstances we
shall appreciate your advise relative to the matter
mentioned above."

In our opinion No. O-2325, referred to above, two
questions were presented for our consideration; the questions

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as presented read as follows:

"No. 1. Can the Board of Control legally contract for insurance for a three year contract?

"No. 2. Can the various State institutions and agencies pay in advance, from current appropriations, for the premium on policies on insurance covering a three year contract?"

These questions were answered in the negative.

You further inform us that a number of the boilers under the jurisdiction of the Board of Control are now insured by various insurance companies. This being true, every insurance company insuring boilers in this State, shall after inspecting any steam boiler, file a duplicate report of such inspection with the Commissioner, as provided by House Bill No. 419, Acts of the 46th Legislature, page 433, Volume 1, General Laws of Texas. House Bill No. 419, supra, reads in part as follows:

"Sec. 5. Every insurance company insuring boilers in this State shall, within thirty (30) days after inspecting any steam boiler, file a duplicate report of such inspection with the Commissioner showing the date of such inspection together with the name of the person making such inspection, and such report shall show fully the condition and location of such boiler at the time such inspection was made. Such reports will also state when the policy of insurance was issued by the insurance company on said boiler and the date of expiration of such policy of insurance. The owner or user of every boiler inspected by an inspector for an insurance company authorized to do business in this State on which such insurance company has issued a policy of insurance after inspection thereof, shall be exempt from other inspections and inspection fees under the provisions of this act; provided nothing in this section shall prevent the commissioner from authorizing the inspection of any insurance boiler at any reasonable time when, in the opinion of the Commissioner, such insured boiler may be in an unsafe condition, provided the Commissioner shall contact the insurance company carrying such insurance and the inspector or deputy inspector shall jointly and together inspect the boiler, within twenty (20) days, for which inspection

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no additional charge shall be made as set forth in Section 12 of this Act. The Commissioner is authorized and has authority to issue a certificate of operation to the owner or user of all boilers subject to inspection under this Act, and the owner or user of any insured boiler shall pay the sum of one dollar (\$1.00) for each certificate of operation issued, and the owner or user of the State inspected boiler shall pay a like sum of one dollar (\$1.00) for each certificate of operation issued, which said fee shall be and is absorbed by the internal and external inspection fee authorized in Section 12 of this Act. Every insurance company shall notify the Commissioner in writing at the cancellation or expiration of every policy of insurance issued by it with reference to boilers in this State, within twenty (20) days after the expiration or cancellation of said policy, giving the cause or reason for such cancellation or expiration. Such notice of cancellation or expiration shall show the date of the policy and the date when the cancellation or expiration has or will become effective."

We do not think that our opinion No. O-2325, above referred to has any application to the question under consideration.

If the above mentioned boilers are now insured by some insurance company duly authorized to do business in this State, then under the provisions of House Bill 419, supra, the said company is required to file the inspector's report of such inspection with the Commissioner, within the time and manner as above set out. The above mentioned act further provides that "the owner and user of every boiler inspected by an inspector for an insurance company authorized to do business in this State on which such insurance company has issued a policy of insurance after inspection thereof, shall be exempt from other inspections and inspection fees under the provisions of this Act."

However, it is further provided that nothing in the above mentioned act shall prevent the Commissioner from authorizing the inspection of any insured boiler at any reasonable time, when in the opinion of the Commissioner, such insured boiler may be in an unsafe condition, provided the Commissioner shall contact the insurance company carrying such insurance and the inspector or deputy inspector shall

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jointly and together inspect the boiler within twenty days, for which inspection no additional charge shall be made, as set forth in Section 12 of House Bill 419 supra.

In view of the foregoing you are respectfully advised that it is the opinion of this Department that the Bureau of Labor Statistics cannot disregard the insurance company inspections and make State inspection of boilers which come under the jurisdiction of the State Board of Control where such boilers are insured by an insurance company authorized to do business in this State, upon which, such insurance company has issued a policy of insurance, and said boiler is inspected by an inspector for said insurance company. However, when in the opinion of the Commissioner, such insured boiler may be in an unsafe condition, the Commissioner may authorize the inspection of any insured boiler at any reasonable time in compliance with the provisions of House Bill 419, supra.

Trusting that the foregoing fully answers your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Ardell Williams*
Ardell Williams
Assistant

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APPROVED SEP 30, 1940

Gerald B. Mann
ATTORNEY GENERAL OF TEXAS

